



FILE COPY

Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 3, 1992

Ms. Debbie Smith
General Counsel
Texas Funeral Service Commission
8100 Cameron Road
Building B, Suite 550
Austin, Texas 78753

OR92-420

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16563.

You have received a request for embalming case reports filed with the Texas Funeral Service Commission by certain mortuary colleges. Specifically, the requestor seeks:

- (1) Any and all embalming case reports of [students of] Commonwealth College of Funeral Service for the years 1984 through 1991.
- (2) Any and all embalming case reports of [students of] Institute of Funeral Service for the years 1984 through 1991.
- (3) Any and all [embalming] case reports of [students of] Commonwealth Institute of Funeral Service for the years 1984 through 1991.
- (4) Any and all [embalming] case reports of [students of] Dallas Institute of Funeral Service for the years 1984 through 1991.

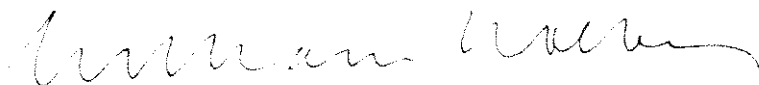
You claim that the requested information is excepted from required public disclosure by privacy interests incorporated by section 3(a)(1) into the Open Records Act.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 3(a)(1) excepts information if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld on common law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. The test for constitutional privacy involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *Industrial Found.*, 540 S.W.2d at 685. The constitutional right of privacy protects information relating to marriage, procreation, contraception, family relationships, and child rearing and education. Open Records Decision No. 447 (1986) at 4. The right of privacy lapses upon death. Attorney General Opinion JM-229 (1984); *see also* Open Records Decision No. 432 (1985) at 5 (Texas law does not permit the family of a deceased person to maintain an action for the deceased's right of privacy).

We have examined the information submitted to us for review and conclude that it is not highly intimate or embarrassing and does not involve the highly intimate interests protected by the doctrine of constitutional privacy. Moreover, the information is of legitimate public interest because it reflects upon the competency of persons licensed by the state. Accordingly, the requested information may not be withheld from required public disclosure under section 3(a)(1) of the Open Records Act and must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-420.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 16563
ID# 16658

cc: Mr. Dale B. Tillery
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